

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

In re: Richard C. Cheever

Debtor(s)

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BK# 03-12194-jmd

Chapter 7

Hearing Date: 6/16/04 at 10:00am

MOTION FOR APPROVAL OF AND NOTICE OF INTENDED SALE

Now comes Timothy P. Smith, Esq., ("Trustee") to request that this court enter an Order approving the sale of real estate located at 4 Commerce Street, Hill, New Hampshire, to Ralph and Bethany Lavin for the sum of \$140,000.00. In support of this motion the Trustee states the following:

1. This case was commenced by the filing of a voluntary petition under chapter 7 on June 24, 2003.
2. Timothy P. Smith is the duly appointed chapter 7 Trustee.
3. The debtor scheduled as an asset real estate located at 4 Commerce Street, Hill, New Hampshire with a value of \$130,000.00.
4. The Trustee employed the firm of Worthen Realty Group as a real estate broker in this case at a commission of eight percent and the court has approved that retention.
5. The broker has obtained a buyer for the property with a purchase price of \$140,000.00 and has recommended that the Trustee accept that offer.
6. The Trustee feels under the circumstances that this is a fair and reasonable offer for the property.
7. The debtor lived in this property and claimed it as exempt under the homestead provisions of the New Hampshire Statutes and additionally claimed \$5,400.00 of the wildcard exemption towards this property. Since this property is not entirely homestead property but also housed the debtor's business the Trustee indicated at the 341 meeting that he would object to the claim of homestead exemption. The Trustee and the debtor then entered into an agreement pursuant to which the debtor will be entitled to forty-one percent of the net proceeds from the sale of the property up to but not exceeding \$50,000.00 plus the unused portion of the

wildcard exemption or \$5,400.00. This agreement results in a claimed exemption in the amount of \$37,059.18.

8. The property is subject to a mortgage in favor of Ocean National Bank with an approximate balance of \$49,241.00.
9. There are outstanding real estate taxes due to the town of Hill in the approximate amount of \$2000.00.
10. The Trustee proposes to sell the free and clear of all liens with any and all such liens to attach to the proceeds of this sale. However the Trustee intends to pay Ocean National Bank at the time of the closing, additionally the Trustee proposes to pay any and all outstanding real estate taxes due on the property at the time of the closing.
11. If the sale is approved the Trustee estimates that there will be approximately \$42,000.00 available to the bankruptcy estate for distribution to creditors.
12. The Trustee feels that this sale is in the best interest of the bankruptcy estate.

Wherefore, the Trustee respectfully requests that this court enters an order which:

- A. Approves the sale of real estate located at 4 Commerce Street, Hill, New Hampshire, to Ralph and Bethany Lavin for the sum of \$140,000.00;
- B. Grant such other relief that is fair and equitable.

Respectfully submitted,

Dated: May 3, 2004

By: /s/ Timothy P. Smith
Timothy P. Smith, Esq.
67 Middle Street
Manchester, NH 03101
603-623-0036
BNH01446

CERTIFICATE OF SERVICE

I, Timothy P. Smith, do hereby certify that I have this day sent, by first class mail, postage prepaid, a copy of the **NOTICE OF INTENDED SALE** and **NOTICE OF HEARING** to the following parties:

United States Trustee
66 Hanover Street
Suite 302
Manchester, NH 03101

Jeffrey Philpot , Esq.
15 Chestnut Street
Laconia, NH 03246-2576

AMEX Centurion Bank
c/o Becket & Lee
PO Box 3001
Malvern, PA 19355-0701

AMEX Travel Related Svcs Co. Corp Card
c/o Becket & Lee
PO Box 3001
Malvern, PA 19355-0701

Advanta Bank Corp
P0 BOX 30715
Salt Lake City, UT 84130-0715

Advanta Business Cards Legal Recovery
1020 Laurel Oak Road
Voorhees, NJ 08043

American Express
P0 BOX 360002
Ft. Lauderdale, FL 33336-0002

American Express
Suite 0002
Chicago, IL 60679-0002

American Express
c/o Alegis Group LP
P0 BOX 741011
Houston, TX 77274-1011

American Express Centurion Bank

c/o Becket & Lee, LLP
PO Box 3001
Malvern, PA. 19355

Bank of America
P0 BOX 53132
Phoenix, AZ 85072-3132

Bank of America, N.A.
PO Box 2278
Norfolk, VA 23501

Capital One
P0 BOX 85015
Richmond, VA 23285-5015

Capital One, FSB
P0 BOX 85184
Richmond, VA 23285-5184

Chase
P0 BOX 15919
Wilmington, DE 19850-5919

Chase Manhattan Bank USA, NA
c/o Chase BankCard Services
PO Box 52176
Phoenix, AZ 85072-2176

Citi Driver's Edge
BOX 6062
Sioux Falls, SD 57117

CitiBusiness Card
P0 BOX 6309
The Lakes, NV 88901-6309

Citibank Visa
P0 BOX 15109
Wilmington, DE 19850-5109

Citibank, N.A.
Citibank/Choice, Exception Pay't Pr
PO Box 6305
The Lakes, NV 88901-6305

Citizens Bank
Bankcard Services

P0 BOX 15026
Wilmington, DE 88901-6309

Discover
P0 BOX 15251
Wilmington, DE 19886-5251

Discover Financial Services
PO Box 8003
Hilliard, OH 43026

MBNA America
P0 BOX 15102
Wilmington, DE 19886-5102

MBNA America Bank, N.A.
PO Box 15168 MS 1423
Wilmington, DE 19850

Martin Judd/Judd & Sons Plumbing
c/o Seufert Professional Assoc.
59 Central St.
Franklin, NH 03235

National City Bank
PO Box 500, K-A16-2J
Portage, MI 49081

Ocean National
P0 BOX 154
Kennebunk, ME 04043-0154

Ocean National Bank
c/o Clifford P. Gallant, Jr., Esquire
91 Bay Street, Box 3150
Manchester, NH 03105-3150

Optima
American Express
P0 BOX 360002
Ft.Lauderdale, FL 33336-0002

Primecard
National City
P0 BOX 856176
Louisville, KY 40285-6176

Sears
P0 BOX 818007
Cleveland, OH 44181-8007

Sears, Roebuck & Co.
PO Box 3671
Des Moines, IA. 50322

State of New Hampshire
Dept. of Employment Security
Attn: Arnold Rocklin-Weare
32 South Main Street
Concord, NH 03301

Town of Hill Tax Collector
P0 BOX 251
Crescent St.
Hill, NH 03243

Wage and Hour Administrator
NH Department of Labor
PO Box 2076
Concord, NH 03302-2076

Dated: April 21, 2004

By: /s/ Timothy P. Smith
Timothy P. Smith, Esq.
67 Middle Street
Manchester, NH 03101
603-623-0036
BNH01446